

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

AMBERLEY LAMBERT, §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. 9:23-CV-67-MJT-CLS
§
§
CITY OF ONALASKA, TEXAS, §
ONALAKSA POLICE DEPARTMENT, §
ONALASKA ELEMENTRY SCHOOL §
and TAMMIE HEETH, §
§
Defendants. §

**MEMORANDUM ORDER ADOPTING THE REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE [Dkt. 33]**

Pursuant to 28 U.S.C. § 636 and the Local Rules of Court for the Assignment of Duties to United States Magistrate Judges, the District Court referred this proceeding to Magistrate Judge Christine L. Stetson to conduct all pretrial proceedings, to enter findings of fact and recommend disposition on case-dispositive matters, and to determine non-dispositive matters. See 28 U.S.C. § 636(b)(1); E.D. TEX. LOC. R. CV-72.

Plaintiff, originally proceeding *pro se*, filed suit on April 3, 2023, alleging Defendants violated her constitutional rights, Texas state law, and federal law [Dkt. 1]. After retaining counsel, Plaintiff filed her amended complaint [Dkt. 17] on September 29, 2023. In her operative complaint, Plaintiff alleges Defendant Tammie Heeth violated her constitutional rights under the First and Fourth Amendment, and that Defendant City of Onalaska has *Monell Liability* for various constitutional violations. Defendants filed a Motion to Dismiss [Dkt. 28] on December 12, 2023, arguing that Plaintiff failed to state a First Amendment Retaliation claim against Defendant Heeth

or any *Monell* claims against Defendant City. Defendants do not challenge Plaintiff's Fourth Amendment Claim against Defendant Heeth.

On April 3, 2024, Judge Stetson recommended [Dkt. 33] the Court deny Defendants' motion as to Plaintiff's First Amendment Retaliation claim against Defendant Heeth, and conditionally grant the motion as to the *Monell* claims against Defendant City pending the filing Plaintiff's amendment of her complaint within twenty-one ("21") days of the Court's adoption of Judge Stetson's Report and Recommendation. The parties did not object to Judge Stetson's Report and Recommendation and the time to do so has passed. After careful review, the Court finds that the findings of fact and conclusions of law of the United States Magistrate Judge are correct.

Accordingly, the Report and Recommendation of the United States Magistrate Judge [Dkt. 33] is ADOPTED. Defendants' Motion to Dismiss [Dkt. 28] is DENIED as to Plaintiff's First Amendment Retaliation claim, and CONDITIONALLY GRANTED as to Plaintiff's *Monell* claims subject to Plaintiff's filing of amended complaint within twenty-one ("21") days of this order's entry. If Plaintiff fails to amend her complaint within that timeframe, all *Monell* claims will be DISMISSED with prejudice.

IT IS SO ORDERED.

SIGNED this 25th day of April, 2024.



Michael J. Truncale
United States District Judge